



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Gil G. DUDKIEWICZ et al.

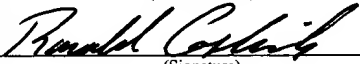
Title: SYSTEM AND METHOD FOR
CREATING AND EDITING A
VIEWER PROFILE USED IN
DETERMINING THE
DESIRABILITY OF VIDEO
PROGRAMMING EVENTS

Application No.: 09/992,414

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Art Unit: 2611

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants request a pre-appeal brief review of the rejections in this application. An amendment canceling certain claims and certain features of other claims is concurrently submitted and provides the basis for the arguments discussed in this request.

Brief Overview Of The Claims

The application has two independent claims (1 and 12). Both independent claims were previously rejected as obvious over the combination of Eick (U.S. 5,912,664), Lee (U.S. 6,483,428) and Wagner (U.S. 6,600,496). Wagner was

cited as teaching a feature that has now been removed from those claims by amendment.

All claims are directed to method or device that allows a viewer to specify the types of subject matter that they are most interested in, in other words, to create a "viewer profile." Each independent claim requires the creation of the viewer profile to involve three things:

1) Navigating through a category hierarchy and indicating subject matter categories of interest to the viewer. The categories must be arranged in a "hierarchy comprising at least a set of top-level categories, respective sets of first level sub-categories each corresponding to and encompassed by a top-level category, and respective sets of second level sub-categories each corresponding to and encompassed by a first level sub-category."

2) Specifying a "qualified keyword." A "qualified keyword" is a keyword that is linked to one of the categories of the hierarchy. A program that matches that keyword is only of interest to the viewer when the program also matches its associated category. For instance, if the qualified keyword is "Giants" and that keyword is linked to the category "Football," this indicates that the viewer is only interested in the football Giants, and not in the baseball Giants.

3) Storing data representing a plurality of the categories and qualified keywords in a viewer profile.

Issues For Which Review Is Requested

Applicants respectfully submit that the rejection should be withdrawn because of the following errors:

1) The absence in the prior art references of "specifying predefined subject matter categories representing subject matter of interest to the viewer," where the categories are arranged in a "hierarchy" having at least three levels of categories.

This limitation is present in all independent claims.

Eick is cited as teaching this feature, with reference to Figures 7, 8 and 9 as showing first level, second level and third level categories. However Eick's Figures 7-9 only show user navigation to a single category, which is then used as a filter to select only certain types of programs for display in a program guide. Eick is not used to select multiple categories that together represent a viewer's interests.

Eick also does not have the three levels of hierarchical categories required by the claim. The first screen shown in Figure 7 simply allow the user to navigate to the "categories" section of the user interface and does not provide any subject matter categories itself.

2) The absence in the prior art references of a "qualified keyword" associated with a category of a "category hierarchy"

This limitation is present in all independent claims.

Lee is cited as teaching this feature, with reference to Figure 4, which allows a user to select a Keyword and a Genre, both of which are then used as elements of a database query. However Lee's "categories" do not have the hierarchical relationship required by the claims and so Lee does not enable a qualified keyword to be created with respect to such categories.

3) The absence in the prior art references of "storing data representing a plurality of categories indicated by the user as representing subject matter of interest and qualified keywords" where the categories are arranged in a "hierarchy."

This limitation is present in all independent claims.

Lee is cited as teaching the storing of data representing viewer interests. However Lee will store at most the single category selected by the user, whereas the claims require the storage of multiple categories. Lee can store a keyword associated with a category, but not multiple keywords, and not a keyword together with multiple categories, and not categories having a hierarchical relationship.

Eick was cited as teaching hierarchical categories, but Eick does not allow a user to select multiple categories and store them together to collectively represent a viewer's interests. Rather, Eick simply lets the user navigate to a particular category, and then that category is used to filter a program guide.

4) The absence of motivation for the claims as a whole.

The cited references contain pieces that resemble the pieces of the present claims. However, the prior art reference are used differently and directed to different goals.

Eick allows a user to filter a program guide, and to facilitate that the user can navigate to a sub-category of a main category, which is then used to filter the guide. However Eick does not envision such navigation being done for the purpose of specifying multiple categories that the user is interested in, and then storing those multiple categories together as elements of a single viewer profile. Eick's user interface does not enable that ability.

Lee allows a user to specify a search string that includes a keyword and a category. However Lee does not envision the user specifying *multiple* categories and storing all of those categories as a single viewer profile. Lee's search string tool (Fig. 4) does not enable that ability.

Neither reference envisions the user specifying multiple keywords, each associated with a different category of a category hierarchy, and storing the multiple keywords together with multiple categories to represent a single viewer profile.

The rejection states that the combination of references would minimize the amount of training required to use a search interface, improve the intuitiveness of the interface, and improve the ease of use of the interface. This is paraphrased from a passage in Lee that describes Lee's motivations for his particular system. In hindsight, the invention of the present claims may achieve these goals, but those goals by themselves do not suggest selecting and combining the particular features

of the prior art references that are allegedly found in the claims. The individual pieces of the claims work together in a way that provides greater abilities than are possessed by their counterparts in the prior art. A viewer profile indicating multiple hierarchically related categories, along with multiple keywords associated with various categories in that hierarchy, provides a much more nuanced representation of user interests than either Eick (a single category) or Lee (a single category and a single keyword) are capable of generating. This indicates that the present claims are not merely obvious from these references.¹

For these reasons it is respectfully requested that the rejections be withdrawn before proceeding to appeal briefing.

Respectfully submitted,

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¹ The Wagner reference was cited as teaching a feature that is now canceled from the claims. Wagner does not supply the features or motivation missing from Eick and Lee.